

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **WESTERN DISTRICT OF WASHINGTON**  
3                                   **AT SEATTLE**

4                   UNITED STATES OF AMERICA,

5                                   Plaintiff,

6                                   v.

7                   TAMMY BLAKEY and FLYING T RANCH,  
8                   INC.,

9                                   Defendants.

No. 23-1910

**COMPLAINT**

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12           The United States of America (“United States” or “Plaintiff”), through its undersigned  
13 attorneys, by the authority of the Attorney General, and at the request of the Administrator of the  
14 United States Environmental Protection Agency (“EPA”), files this Complaint and alleges as  
15 follows:  
16

17                                   **NATURE OF THE ACTION**

18           1.       This is a civil action under Clean Water Act (“CWA” or “the Act”) Section  
19 309(b) and (d), 33 U.S.C. § 1319(b) and (d). The United States seeks injunctive relief and civil  
20 penalties against Tammy Blakey, and Flying T Ranch, Inc. (“Defendants”), for violating CWA  
21 Section 301(a), 33 U.S.C. § 1311(a), by discharging pollutants, such as dredged material and/or  
22 fill material, into waters of the United States, including the North Fork Stillaguamish River on  
23 property owned by Flying T Ranch, Inc., on 18808 State Route 530 NE, Arlington, Washington  
24 (Snohomish County parcel number 20612-003-008-00) and adjacent properties (collectively, the  
25 “Site”), without a permit issued by the U.S. Army Corps of Engineers under CWA Section 404,  
26 33 U.S.C. § 1344.  
27  
28



1 property located at 18808 State Route 530 NE, Arlington, Washington. Upon information and  
2 belief, Flying T. Ranch, Inc., contracted for, controlled, and/or directed the activities that  
3 discharged pollutants to waters of the United States without a CWA Section 404 permit.  
4

5 8. Defendant Tammy Blakey, whose principal address is 18808 State Route 530 NE,  
6 Arlington, Washington, is a member and/or governor of Flying T Ranch, Inc. Upon information  
7 and belief, Ms. Blakey exercised control over the activities that discharged pollutants to waters  
8 of the United States without a CWA Section 404 permit. According to Snohomish County  
9 records, Ms. Blakey a/k/a Flying T Ranch, Inc., is the owner of the property located at 18808  
10 State Route 530 NE, Arlington, Washington.  
11

12 9. Each Defendant is a “person” within the meaning of Section 502(5) of the CWA,  
13 33 U.S.C. § 1362(5).  
14

15 10. At all times relevant to this Complaint, as discussed further below,  
16 Defendants were responsible for the discharges of pollutants into waters of the United States  
17 without the required CWA permit at the Site.

### 18 **STATUTORY BACKGROUND**

19 11. The CWA’s purpose is “to restore and maintain the chemical, physical, and  
20 biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a).  
21

22 12. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of any  
23 pollutant, including dredged or fill material, by any person from any point source to navigable  
24 waters unless that discharge is authorized by a permit issued under CWA Section 402 or 404, 33  
25 U.S.C. §§ 1342 or 1344.  
26

27 13. CWA Section 404(a), 33 U.S.C. § 1344(a), authorizes the Secretary of the Army,  
28 acting through the U.S. Army Corps of Engineers, to issue permits for the discharge of dredged

1 or fill material to navigable waters at specified disposal sites, after notice and opportunity for  
2 public comment.

3 14. CWA Section 502(12), 33 U.S.C. § 1362(12), defines “discharge of a pollutant”  
4 to include “any addition of any pollutant to navigable waters from any point source.”  
5

6 15. CWA Section 502(6), 33 U.S.C. § 1362(6), defines “pollutant” to include, *inter*  
7 *alia*, dredged spoil, rock, sand, and cellar dirt.

8 16. CWA Section 502(7), 33 U.S.C. § 1362(7), defines “navigable waters” as “the  
9 waters of the United States, including the territorial seas.”  
10

11 17. 33 C.F.R. § 328.4(c) states that the United States’ regulatory jurisdiction over  
12 “waters of the United States” for non-tidal waters, which includes rivers, “extends to the ordinary  
13 high water mark.”

14 18. CWA Section 502(14), 33 U.S.C. § 1362(14), defines “point source” to include  
15 “any discernible, confined and discrete conveyance . . . from which pollutants are or may be  
16 discharged.”  
17

18 19. CWA Section 502(5), 33 U.S.C. § 1362(5), defines “person” to include “an  
19 individual, corporation, partnership, [or] association . . . ”  
20

21 20. CWA Section 309(b), 33 U.S.C. § 1319(b), authorizes the commencement of a  
22 civil action for appropriate relief, including a permanent or temporary injunction, against any  
23 person who violates CWA Section 301(a).

24 21. In an action brought under CWA Section 309(b), 33 U.S.C. § 1319(b), Section  
25 CWA Section 309(d), 33 U.S.C. § 1319(d), authorizes the district court to impose civil penalties  
26 on any person who violates CWA Section 301(a).  
27  
28

**GENERAL ALLEGATIONS**

22. The Site consists of three contiguous properties: (1) 18808 State Route 530 NE, Arlington, WA 98223, identified by Snohomish County as tax parcel number 320612-003-008-00, which is owned by Flying T Ranch, Inc. a/k/a Tammy Blakey; (2) tax parcel number 320612-003-013-00, which, at the time of the unauthorized discharges, was owned by the Clara Anderson Family Ltd. Partnership; and (3) tax parcel number 320612-003-012-00, which, at the time of the unauthorized discharges, was owned by Snohomish County. The Stillaguamish Tribe of Indians is the current owner of tax parcel numbers 320612-003-013-00 and 320612-003-012-00.

23. The Site includes shoreline along the North Fork Stillaguamish River.

24. The North Fork Stillaguamish River is a relatively permanent standing or continuously flowing body of water and is approximately 45 miles long. The North Fork Stillaguamish River and South Fork Stillaguamish River form the mainstem of the Stillaguamish River, which flows into Puget Sound and the Pacific Ocean, a territorial sea.

25. The North Fork Stillaguamish River is a traditional navigable water that is navigable-in-fact, and has been and is used in interstate and foreign commerce.

26. The North Fork Stillaguamish River provides spawning and rearing habitat for Chinook salmon, steelhead trout, and bull trout, which are listed as threatened under the Endangered Species Act, 16 U.S.C. § 1531, *et seq.* The North Fork Stillaguamish River is designated as critical habitat for these species. 50 C.F.R. § 226.212 (salmon and steelhead trout); 75 Fed. Reg. 63898 (Oct. 18, 2010) (bull trout).

27. The State of Washington has listed the North Fork Stillaguamish River as an impaired waterbody under CWA Section 303(d), 33 U.S.C. § 1313(d), for exceeding the

1 turbidity water quality standards for aquatic life within approximately 0.25 miles downstream  
2 from the Site.

3 28. On or before December 14, 2018, at Ms. Blakey and/or Flying T Ranch, Inc.'s  
4 behest and direction, Andrew Floe, who is now deceased, staged approximately 120 cubic yards  
5 (*i.e.*, 12-15 truckloads) of quarried rock, concrete rubble or debris, woody debris, and other  
6 materials at the Site landward of the ordinary high water mark along the bank of the North Fork  
7 Stillaguamish River.  
8

9 29. In or around January 2019, at Ms. Blakey and/or Flying T Ranch, Inc.'s behest  
10 and direction, Mr. Floe used motorized equipment (*e.g.*, dump truck, bulldozer, and/or tractor) to  
11 discharge the fill materials previously staged along the bank of the North Fork Stillaguamish  
12 River into the river below the ordinary high water mark.  
13

14 30. Ms. Blakey paid Mr. Floe at least \$2,000 to conduct this work.  
15

16 31. Ms. Blakey has stated that this work was necessary to protect a power pole on the  
17 Site from the River.

18 32. The Stillaguamish Tribe of Indians was the first to report the unauthorized  
19 discharge to authorities. The Tribe maintains Tribal Treaty Rights establishing usual and  
20 accustomed fishing sites on the North Fork Stillaguamish River.  
21

22 33. Neither of the Defendants obtained a CWA Section 404 permit from the U.S.  
23 Army Corps of Engineers for the discharges of fill material below the ordinary high water mark  
24 of the North Fork Stillaguamish River at the Site.

25 34. On August 6, 2019, the Snohomish County Department of Planning and  
26 Development Services issued a Notice of Violation to Ms. Blakey for: (a) land disturbing activity  
27 without a permit along the Stillaguamish River, including grading, importing, and excavation  
28

1 (Snohomish County Code Sections 30.63B.030 and 30.63B.070); and (b) development in a flood  
2 hazard area along the Stillaguamish River, including placement of imported fill, excavation, and  
3 clearing without a permit (Snohomish County Code Sections 30.43C.020).

4  
5 35. Ms. Blakey appealed the Notice of Violation. On December 23, 2019, the  
6 Snohomish County Hearing Examiner denied Ms. Blakey's appeal from the Notice of Violation  
7 for armoring the riverbank at the power pole and upstream from the power pole (Snohomish  
8 County Code Sections 30.43C.020). The Hearing Examiner affirmed Ms. Blakey's appeal from  
9 the Notice of Violation for land disturbing activity upland from the power pole (Snohomish  
10 County Code Sections 30.63B.030 and 30.63B.070). Snohomish County has issued fines to Ms.  
11 Blakey in the amount of \$36,000, which remain unpaid as of November 2023.

12  
13 36. In addition, the Washington Department of Natural Resources has requested at  
14 least six times that Ms. Blakey remove the unauthorized fill materials placed along the North  
15 Fork Stillaguamish River, which is State owned aquatic land (Revised Code of Washington  
16 79.02.300).

17  
18 37. Ms. Blakey has failed to remove the unauthorized materials. As a result, the  
19 Washington Department of Natural Resources placed Flying T Ranch, Inc., in Unauthorized Use  
20 and Occupancy status, for which the Department assesses a monthly fee of \$580.74 until the  
21 unauthorized fill material is removed. As of November 2023, outstanding fees assessed to  
22 Flying T Ranch, Inc., for the unauthorized use of the bank totaled \$23,665.38.

23  
24 38. As of the filing of this Complaint, the fill material remains in place along the  
25 shoreline below the ordinary high water mark of the North Fork Stillaguamish River.

26  
27 39. Neither of the Defendants has taken corrective action and/or provided  
28 compensatory mitigation for the direct and temporal losses to waters of the United States.

**CLAIM FOR RELIEF:**  
**UNAUTHORIZED DISCHARGES OF DREDGED OR FILL MATERIAL**  
**(33 U.S.C. § 1311(a))**

40. The United States repeats and realleges the allegations in Paragraphs 1 through 39.

41. Through the activities described in paragraph 29, Defendants discharged, made the decision to discharge, and/or directed or otherwise controlled the discharge of dredged or fill material along the shoreline below the ordinary high water mark of the North Fork Stillaguamish River.

42. The dredged or fill material included, among other things, quarried rock, concrete rubble or debris, woody debris, all of which constitute “pollutants” as defined in CWA Section 502(6), 33 U.S.C. § 1362(6).

43. The motorized equipment that Defendants used, made the decision to use, and/or directed or contracted to be used to discharge the dredged or fill material at the Site constitute “point sources” as defined in CWA Section 502(14), 33 U.S.C. § 1362(14).

44. Neither Defendant obtained a CWA Section 404 permit from the U.S. Army Corps of Engineers for the discharges of dredged or fill material at the Site, in violation of CWA Section 301(a), 33 U.S.C. § 1311(a).

45. The discharges of dredged or fill material at the Site violated and continue to violate CWA Section 301(a), 33 U.S.C. § 1311(a).

46. The violations of the CWA have caused ongoing damages and injury to the aquatic environment of the North Fork Stillaguamish River.

47. Holding Defendants liable for the violations of the CWA is necessary to prevent further injuries to the North Fork Stillaguamish River.





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